

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. 500 of 2003

CORAM: Hon'ble Shri S.R. Nayak, CJ
& Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellant : The National Insurance Co. Ltd. Branch
Non-Applicant No.3 Jagdalpur, Distt. Bastar (Chhattisgarh).

Versus

Respondents : 1. Smt. Mayavati, w/o Hidmaram Mandavi,
aged 25 years, R/o Bazarpara, Kodanar,
Tahsil Jagdalpur, Distt. Bastar (C.G.)

NON-APPLICANT NO.2, OWNER

: 2. Shyam Singh @ Budhram s/o Devi Singh,
Dhakad, aged 25 years, R/o. village
Mavali Bhata Pujaripara, P.S. Kodanar,
Jagdalpur Tahsil Jagdalpur Distt. Bastar
(C.G.)

NON-APPLICANT NO.1 DRIVER

: 3. Podiyami Bhadrus s/o Podiyami fagu. aged
38 years Caste Madiya, R/o Titepara
Bodemar, Police Station Kodanar, Tahsil
Jagdalpur, Distt. Bastar (C.G.)

CLAIMANT

Above persons are parties in Claim case
No.74/2002 appeal valued at
Rs.30,000/-

: 4. Podiyami Pandu s/o late Guddi, aged 35
years, Caste Madiya, R/o Sukepara
Village Bade Bodanar Distt. Bastar (C.G.)

CLAIMANT

Above respondent is parties

Applicant/claimant in case No.
No.77/2002, appeal valued at
Rs.40,000/-

- : 5. Poyami kaya s/o. late Gunge, aged 50 years.
- : 6. Smt. Hadami wife of late Karu aged 22 years,
- : 7. Rajman s/o. Karu, aged 3 years Through-Minor mother Smt.Hadami wife of late Karu.

No.5 to 7 are resident Patelpara village
Kawadgaon Police Station, Katekalyan,
Distt. Dantewada (C.G.)

CLAIMANTS

Above respondents are parties
applicants/claimants in claim case
No.70/2002, appeal valued at
Rs.2,11,000/-.

Shri Srikumar Agrawal, Sr. Advocate with Shri Anand Gupta, counsel
for the appellants.

ORAL ORDER

(Passed on 17th January, 2006)

The following oral order of the Court was passed by
S.R.NAYAK, C.J.

1. This common M.A. is directed against the award passed by the Motor Accidents Claims Tribunal (M.A.C.T.) in claim cases No.74/2002, 77/2002 and 70/2002.
2. Having heard the learned counsel for the appellant-Insurance Company, we dispose of this appeal with regard to all the claims.
3. The claim applications were opposed by the appellant-Insurance Company on the ground that the driver of the motor vehicle involved in the accident on the date of the accident did not have valid and effective licence.

4. Although the above plea was taken in the written statement filed by the Insurance-Company, the fact remains that it has utterly failed to prove that plea by producing substantive legal evidence. It is well settled that if Insurance Company wants to deny its liability to pay the compensation on the above ground, it should not only plead that the driver of the motor vehicle involved in the accident as on the date of accident did not have valid and effective license but also prove that plea by producing substantive legal evidence. Secondly, the M.A.C.T. has recorded a factual finding that the motor vehicle involved in the accident was insured by the appellant-Insurance Company. This finding is not seriously contested by the learned counsel for the appellant-Insurance Company.

5. The appeal is devoid of merit. It is therefore dismissed. No costs.

Sd/-
Chief Justice

Sd/-
Dilip RaoSaheb Deshmukh
Judge